NOTIFICATION

Law Department

No. LAW 22 LCA 67, *Bangalore, dated* 17*th June* 1967

Ordered that the Anti-Corruption Laws (Amendment) Bill, 1967 (Bill No. 47 of 1967), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2 dated the 24th May 1967, be published in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

B. Ramachandra Rao,
Under Secretary to Government,
Law Department.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 24th May 1967.—

Bill No. 47 of 1967.

A bill further to amend the anti-corruption laws

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Anti-Corruption Laws (Amendment) Act, 1967.

(2) It shall be deemed to have come into force on the 5th day of May 1967.

2. *Amendment of anti-corruption law in relation to certain pending trials.*—(1) Notwithstanding—

(a) the substitution of new provisions for sub-section (3) of section 5 of the Prevention of Corruption Act, 1947 (2 of 1947), (hereinafter referred to as the 1947-Act) by section 6(2) (c) of the Anti-Corruption Laws (Amendment) Act, 1964 (40 of 1964), (hereinafter referred to as the 1964-Act) ; and

(*b*) any judgment or order of any court,

the said sub-section (3) as it stood immediately before the commencement of the 1964-Act, shall apply and shall be deemed always to have applied to and in relation to trials of offences punishable under sub-section (2) of section 5 of the 1947-Act pending before any court immediately before such commencement as if no such new provisions had been substituted for the said sub-section (3).

(2) *The accused person in any trial to and in relation to which sub-section* (1) *applies may, at the earliest opportunity available to him after the commencement of this Act, demand that the trial of the offence should proceed from the stage at which it was immediately before the commencement of the* 1964-*Act and on any such demand being made the court shall proceed with the trial from that stage.*

(3) *For the removal of doubt it is hereby provided that any court*—

(*i*) *before which an appeal or application for revision against any judgment, order or sentence passed or made in any trial to which sub-section* (1) *applies is pending immediately before the commencement of this Act, or*

(*ii*) *before which an appeal or application for revision against any judgment, order or sentence passed*

or made before the commencement of this Act in any such trial, is filed after such commencement,

shall remand the case for trial in conformity with the provisions of this section.

3. *Repeal and saving.*—(1) The Anti-Corruption Laws (Amendment) Ordinance, 1967 (3 of 1967) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

Statement of Objects and Reasons

Under sub-section (3) of section 5 of the Prevention of Corruption Act, 1947, as it stood immediately before the commencement of the Anti-Corruption Laws (Amendment) Act, 1964, in a trial for the offence of criminal misconduct in the discharge of official duty, on proof of the fact that the accused person or any other person on his behalf was in possession, without being able to satisfactorily account for the same, of pecuniary resources or property disproportionate to his known sources of income, a presumption would arise that the accused was guilty of the offence; and if the accused failed to rebut the presumption, the court could convict him on the strength of the presumption alone. By the 1964-Act afore-mentioned the law on the subject was made more stringent; possession of pecuniary resources or property disproportionate to one's known sources of income was made by itself a substantive offence and certain new provisions were substituted for the said sub-section (3). No saving provision was made in the amending Act in respect of cases pending immediately before the commencement of

that Act, as it was assumed that the presumption contained in the said sub-section would continue to apply to such cases by virtue of section 6 of the General Clauses Act, 1897. In Criminal Appeal 62-D of 1966, the Punjab High Court, took a contrary view and held that the presumption was not saved. The non-availability of the presumption in respect of such pending cases might, in all probability, have resulted, in a number of such cases, in acquittal of the accused persons. Government, apart from becoming liable to pay compensation or arrears of salary to officers under suspension, might have been forced to allow corrupt officers to go unpunished. Thus, it became urgently necessary to revive with retrospective effect the provisions relating to the presumption contained in the said section 5(3) in respect of cases so pending. The Anti-Corruption Laws (Amendment) Ordinance, 1967 was promulgated for this purpose. At the same time, to ensure fair trial to accused persons, the Ordinance provided for *de novo* trial of such pending cases from the stage which they reached immediately before the commencement of the amending Act of 1964.

2. The Bill seeks to replace the Ordinance by an Act of Parliament.

NEW DELHI,
The 17th May, 1967.

Y. B. CHAVAN.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for *de novo* trials of the cases affected by it from the stage at which they were immediately before the commencement of the Anti-Corruption Laws (Amendment) Act, 1964. Where such case is at the trial stage, such *de novo* trial is necessary only if the accused person makes a demand in that regard. In regard to cases in appeal the court before which the appeal is pending, or, as the case may be, is filed has to remand the case for such *de novo* trial. Having regard to the number of cases which may be affected by the clause, it will not be necessary to appoint any additional special judges for the trial of those cases. However, in respect of such cases some additional expenditure of a non-recurring nature may be involved from the Consolidated Fund of India, in connection with miscellaneous matters. While it is difficult to make a definite calculation of such additional expenditure (as that will depend *inter alia* upon the number of cases in which *de novo* trial is demanded), it is estimated that such expenditure will be approximately Rs. 10,000.

S. L. SHAKDHER,

Secretary.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bhopal.